

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 ILYA FELIKSOVICH
 IOSILEVICH,

Plaintiff,

v.

WALMART INC., JOSEPH NEGRON, JANE
 DOE, JANE DOE AKA BIATRIZ, KEVIN P.
 BRUEN, JOHN T. REICHERTER, JOHN AND
 JANE DOE 1-2, and WESTCHESTER
 COUNTY,

Defendants.
 -----X

ORDER

22 CV 4757 (VB)

On June 7, 2022, plaintiff, proceeding pro se and in forma pauperis, commenced this action against Walmart, Inc. ("Walmart"); Walmart Asset Protection Associate Joseph Negron; John and Jane Doe Walmart employees; New York State Police Superintendent Kevin P. Bruen; New York State Trooper John T. Reicherter; John and Jane Doe partners of Trooper Reicherter; and Westchester County. (Doc. #2).

On June 14, 2022, counsel for defendant Walmart filed a notice of appearance. (Doc. #5).

On July 6, 2022, the Court entered an Order of Service directing the U.S. Marshals Service to effectuate service on the named defendants and extending plaintiff's time to serve under Rule 4(m) to 90 days after the date summonses were issued. (Doc. #7). The Court also ordered that by no later than September 6, 2022, the New York State Attorney General shall ascertain the identity of the New York State Trooper John and Jane Doe defendants. (Id.).

Summonses for the named defendants were issued on July 7, 2022. (Doc. #8). Accordingly, plaintiff's deadline to serve the named defendants was October 5, 2022.

By letter dated September 2, 2022, the New York State Attorney General identified the New York State Trooper John and Jane Doe defendants as Sean Mallinson and Courtney Ramos. (Doc. #10).

On October 12, 2022, defendant Westchester County filed a motion to dismiss the complaint. (Doc. #12).

To date, there is no indication on the docket that the U.S. Marshals Service has served defendants Walmart, Negron, Bruen, or Reicherter. On October 17, 2022, the U.S. Marshals Service docketed Return of Service Unexecuted forms as to defendants Negron and Reicherter (Docs. ##15, 17).

In addition, the Walmart John and Jane Doe defendants have yet to be identified.

Accordingly, it is hereby ORDERED:

1. Plaintiff's deadline to oppose the pending motion to dismiss, and Westchester County's deadline to file a reply, are STAYED pending further order of the Court. **To be clear, plaintiff shall not file an opposition to Westchester County's motion to dismiss at this time.**
2. By November 21, 2022, the New York State Attorney General shall ascertain an updated address where defendant Reicherter may be served, and provide this information to plaintiff and to the Court.
3. By November 21, 2022, counsel for Walmart shall ascertain the identity of the Walmart John and Jane Doe defendants and the addresses where they may be served, and provide this information to plaintiff and to the Court. Walmart's counsel's submission shall also state whether counsel is willing to accept service on behalf of Walmart, Negron, and the newly-identified Walmart defendants.
4. Within 30 days of receiving this information from Walmart's counsel, plaintiff must file an amended complaint. The amended complaint shall include the names of the newly-identified Walmart defendants, as well as defendants Sean Mallinson and Courtney Ramos, and shall also include all factual allegations regarding all named defendants. The amended complaint shall also address any deficiencies made apparent by the fully briefed arguments in Westchester County's motion to dismiss. **To be clear, the amended complaint will completely replace the original complaint. Therefore, plaintiff should include in the amended complaint all information necessary for his claims against all defendants.**
5. Once plaintiff has filed the amended complaint, the Court will screen the amended complaint and, if necessary, issue an order directing the Clerk of Court to complete the U.S. Marshals Service Process Receipt and Return form with the addresses for Mr. Reicherter and the newly-named defendants and deliver all documents necessary to effect service to the U.S. Marshals Service.
6. Within 21 days after the filing of the amended complaint, Westchester County may either: (i) file an answer to the amended complaint; (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that it is relying on the initially filed motion to dismiss.

7. To allow additional time for the U.S. Marshals Service to effect service on the remaining defendants, plaintiff's time to serve under Rule 4(m) is extended to January 19, 2023.

Dated: October 19, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge